

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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KEVIN ROHN GILL,

Case No. 3:14-cv-00628-MMD-WGC

**Petitioner,**

## ORDER

v.

ISIDRO BACA, et al.

## Respondents.

14 The Court found that petitioner had not exhausted his state-court remedies for  
15 some of his grounds for relief. Petitioner filed a motion to stay (ECF No. 58). His only  
16 argument in support of his motion is that he was unaware that not all of his grounds had  
17 been presented to the state courts, and that state post-conviction counsel told him that  
18 the case had run its course and that there was nothing else for counsel to do.

19 The Court agrees with respondents' arguments in their opposition (ECF No. 60).  
20 “[U]nspecific, unsupported excuses for failing to exhaust—such as unjustified  
21 ignorance—[do] not satisfy the good cause requirement.” *Blake v. Baker*, 745 F.3d 977,  
22 981 (9th Cir. 2014) (citing *Wooten v. Kirkland*, 540 F.3d 1019, 1024 (9th Cir. 2008)).  
23 Petitioner gives no explanation how post-conviction counsel had misled him into  
24 believing, incorrectly, that all his grounds for relief had been presented to the state courts.

25 The Court also agrees with respondents that petitioner has not satisfied the other  
26 two factors for a stay: Potential merit and not being dilatory. See *Rhines v. Weber*, 544  
27 U.S. 269, 278 (2005). Petitioner has made no argument on either of these two factors,  
28 and the Court will not consider them.

1 The Court directed petitioner to designate an alternate action in case the Court  
2 declined to stay the action. Petitioner did not designate an alternate action in the motion  
3 to stay. However, petitioner subsequently has filed a motion to dismiss (ECF No. 63). He  
4 states that he wants to exhaust his grounds in the state district court. Petitioner asks that  
5 the dismissal be without prejudice. Technically, such a dismissal would be without  
6 prejudice. However, the Court makes no promises that any habeas corpus petition filed  
7 in this Court after petitioner exhausts his state-court remedies would be timely. As always,  
8 petitioner remains solely responsible for filing a petition within the one-year limit of 28  
9 U.S.C. § 2244(d)(1).

Reasonable jurists would not find the Court's determinations to be debatable or wrong, and the Court will not issue a certificate of appealability.

12 It is therefore ordered that petitioner's motion to stay (ECF No. 58) is denied.

13 It is further ordered that petitioner's motion to dismiss (ECF No. 63) is granted.  
14 This action is dismissed voluntarily without prejudice. The Clerk of the Court will enter  
15 judgment accordingly and close this action.

16 It is further ordered that a certificate of appealability will not issue.

DATED THIS 7<sup>th</sup> day of March 2018.



MIRANDA M. DU  
UNITED STATES DISTRICT JUDGE